

Appl. No. 09/328,975
Amdt. dated 07/15/2005
Reply to Office action of 06/28/2005

Remarks

Rejection of the claims under 35 USC § 112

Claims 5 and 7 have been rejected as being indefinite for depending from cancelled claim 4. Applicants have amended claims 5 and 7 to depend from claim 1.

Claim 6 has been rejected as being indefinite for lack of antecedent basis for the term "charged polymer". Applicants have amended the claim as suggested by the Examiner.

Double Patenting:

Claims 1, 3, and 5-8 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,881,576. With this Response, Applicants have filed a terminal disclaimer to overcome the rejection.

Claims 1, 3, and 6-8 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 and 11-15 of U.S. Patent No. 6,740,643. With this Response, Applicants have filed a terminal disclaimer to overcome the rejection.

Claims 1, 3, and 5-7 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,740,336. With this Response, Applicants have filed a terminal disclaimer to overcome the rejection.

Claims 1, 3, and 5-8 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,818,626. With this Response, Applicants have filed a terminal disclaimer to overcome the rejection.

Claims 1, 3, and 5-7 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6, 7, 9, 12, 14-18, 20, and 22-24 of copending Application No. 10/795,679. With this Response, Applicants have filed a terminal disclaimer to overcome the rejection.

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Rejection of the claims under 35 USC §102/103:

Claims 1, 3, and 5-8 have been rejected under 35 U.S.C. 102(f) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 6,881,576. The claims of the instant application encompass polymers that are not polyampholytes and therefore has different inventorship. The instant application was filed 06/09/1999 and claims priority to U.S. Provisional Application 60/093,153, filed 7/17/98. '576 claims priority to 01/02/2001, which is after the filing date of the instant application. Therefore the rejection under 103 is believed to be inappropriate. Applicants request reconsideration of the rejection.

Claims 1, 3, and 5-8 have been rejected under 35 U.S.C. 102(f) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 6,740,643. The claims of the instant application encompass polymers that are not polymeric amphiphile binding agents and therefore has different inventorship. The instant application was filed 06/09/1999 and claims priority to U.S. Provisional Application 60/093,153, filed 7/17/98. '643 claims priority to 11/29/1999, which is after the priority date of the instant application. Applicants request reconsideration of the rejection.

Claims 1, 3, and 5-7 have been rejected under 35 U.S.C. 102(f) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 6,740,336. The claims of the instant application encompass recharging of DNA/polycation complexes by the addition of polyanions. '336 encompasses the formation of polynucleotide-containing particles comprising three or more layers and a process of generating such particles comprising passing intermediate particles through successive layers of oppositely charged polymers. Therefore the instant application has different inventorship from '336. The instant application was filed 06/09/199 and claims priority to U.S. Provisional Application 60/093,153, filed 7/17/98. '336 was filed 10/04/2002, which is after the priority date of the instant application. Applicants request reconsideration of the rejection.

Claims 1, 3, and 5-8 have been rejected under 35 U.S.C. 102(f) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 6,818,626. The claims of the instant application encompass polymers that are not chelators and therefore has different inventorship. Applicants have submitted, with an amendment filed 06/07/2004, a Declaration

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under 37 CFR 1.131 showing invention prior to the '626 priority date. Applicants request reconsideration of the rejection.

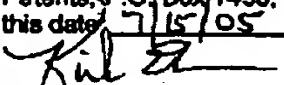
Claims 1, 3, and 5-7 have been provisionally rejected under 35 U.S.C. 102(f) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over copending Applications No. 10/795,679. '679 specifically encompasses the formation of polynucleotide-containing particles comprising more than three layers. Therefore the instant application has different inventorship from '679. The instant application was filed 06/09/1999 and claims priority to U.S. Provisional Application 60/093,153, filed 7/17/98. '679 claims priority to 10/04/2002, which is after the priority date of the instant application. Applicants request reconsideration of the rejection.

The Examiner's rejections are now believed to be overcome by this response to the Office Action. In view of Applicants' amendment and arguments, it is submitted that claims 1, 3, and 5-8 should be allowable. Applicants respectfully request a timely Notice of Allowance be issued in the case.

Respectfully submitted,



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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date 7/15/05

Kirk Ekena